



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/600,461 | 06/23/2003 | Lorenzo Cortelazzo | 37647/GM/br | 7264 |

7590 08/11/2006

MODIANO & ASSOCIATI
Via Meravigli, 16
Milano, 20123
ITALY

EXAMINER

NAGPAUL, JYOTI

ART UNIT PAPER NUMBER

1743

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/600,461 | | CORTELAZZO, LORENZO | |
| | Examiner | | Art Unit | |
| | Jyoti Nagpaul | | 1743 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Amendment filed on May 24, 2006 has been acknowledged. Claims 1-20 are pending.

Response to Amendment

Rejection of Claims 1-20 as being unpatentable over Hayes (US 5589400) in view of Wendt (US 4209923) has been modified in light of applicant's amendments.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayes (US 5589400) in view of Wendt (US 4209923).

Hayes discloses a container assembly for treating biological samples in cytocentrifuges. The container comprises a vertical flat supporting base (24) for supporting the container assembly in an upright position upon mounting thereof in the

cytocentrifuge, a wall (12) protruding at right angles from the supporting base (20), at least one funnel (22) supported by the wall (12) and provided in a lower region thereof with a corresponding horizontal connection channel (44) extending between the lower region of the funnel (22) and the supporting base (24), a slide (16), and a filtering card (Col. 1, Lines 47-49). The support (18) being formed from a single element made of molded plastic material, such as polyethylene (Col. 5, Lines 19-21). The support (18) comprises of a flat supporting body (18) provided with edges (52) that protrude therefrom so as to form a seat adapted to accommodate the slide (16), filtering card (Col. 1, Lines 47-49) and supporting base (24) of the container. (See Fig. 1) Clamp means (54) at edges (52) for accommodating and retaining, in succession, the slide (16), the filtering card and the base of the container (24). The support (18) further includes a transverse pivot (56) protruding from the supporting body (18) and made as an integral part thereof for fixing the support to a centrifuge. (See Figure 1) With respect to disposable support (18), Hayes does not explicitly disclose the support is disposable. However, it should be noted it is inherently known that anything can be disposable.

Hayes fails to explicitly teach containment tabs and supporting body, clamp means and transverse pivot forming a monolithic structure of plastic material. Hayes also fails to teach hook-shaped tabs comprising respective levers that extend towards a rear part of the supporting body and clamp means provided at the edges which have levers adapted for finger actuation that produces an elastic flexing motion thereof such

Art Unit: 1743

as to move apart the clamp means for accommodating and retaining the slide, the filtering card and the base of the container.

Wendt teaches a slide holder. The slide holder comprises of integrally formed two mutually flexible retaining springs/hooked-shaped tabs. (Col. 3, Lines 10-11) Wendt further teaches clamp means (222) provided at the edges which have levers/tilting mechanism (226) adapted for finger actuation that produces an elastic flexing motion thereof such as to move apart the clamp means (222) for accommodating and retaining the slide.

With respect to supporting body clamp means and transverse pivot forming a monolithic structure of plastic material, it would have been obvious in the art to modify the support of Hayes such that the supporting body, clamp means and transverse pivot forming a monolithic structure of plastic material in order to save cost on materials and provide a simpler ready to use device for treating biological materials.

With respect to containment tabs, it would have been obvious to one of the ordinary skill in the art to modify the support of Hayes to include containment tabs/hooked-shaped tabs and clamp means provided at the edges which have levers adapted for finger actuation that produces flexing motion thereof such as to move apart s to move apart the clamp means in order to securely and firmly hold the slide, the filtering card and the supporting base of container.

Response to Arguments

Amendment filed on May 24, 2006 has been acknowledged. Applicants argue that the container assembly with clamps on the support comprising finger actuation lever is not disclosed. Examiner uses Wendt for this teaching. Please refer above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jyoti Nagpaul whose telephone number is 571-272-1273. The examiner can normally be reached on Monday thru Friday (8:00-4:30).

Art Unit: 1743

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JN


Jill Warden
Supervisory Patent Examiner
Technology Center 1700